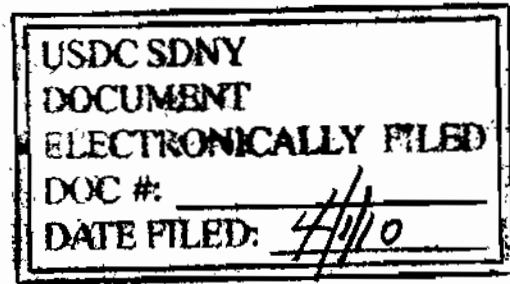


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



WOODROW FLEMMING,

Petitioner,

-against-

STATE OF NEW YORK and
SUPERINTENDENT R. WOODS,

Respondents.

06 Civ. 15226 (RJH)(HBP)

ORDER

On August 10, 2009, Magistrate Judge Henry B. Pitman issued a Report and Recommendation ("Report") recommending that the Court deny Woodrow Flemming's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 seeking an order vacating a judgment of conviction. Petitioner thereafter filed objections reiterating his unsupported contention that the indictment underlying his conviction had been dismissed before he pleaded guilty, and also repeating his conclusory double jeopardy claim, which does not identify any prior punishment for the same conduct. Judge Pitman addressed and rejected both claims in the Report. Petitioner's objections do not reference the Report or discuss any specific section thereof.

Generally, a district court must review *de novo* those portions of a Magistrate Judge's report to which objection is made, 28 U.S.C. § 636(b)(1)(C), by examining "the report, the record, applicable legal authorities, along with Plaintiff's and Defendant's objections and replies." *Badhan v. Lab. Corp. of Am.*, 234 F. Supp. 2d 313, 316 (S.D.N.Y. 2002). "If, however, the party makes only conclusory or general objections, or

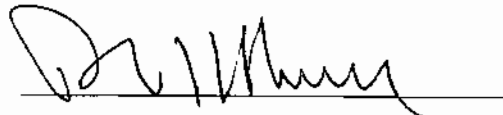
simply reiterates his original arguments, the Court reviews the Report and Recommendation only for clear error.” *Silva v. Peninsula Hotel*, 509 F.Supp.2d 364, 366 (S.D.N.Y.2007) (citations omitted). The court may then accept, reject, or modify in whole or in part recommendations of the Magistrate Judge. *See Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985).

Because petitioner has made only general objections that repeat his original arguments, the clear error standard applies. *Silva*, 509 F. Supp. 2d at 366. The Court has carefully reviewed the exhaustive 66-page Report, in which Judge Pitman analyzed petitioner’s claims thoroughly and correctly. As no clear error appears on the face of the record, the Court hereby adopts the Report in its entirety. The Clerk of the Court is requested to close this case.

SO ORDERED.

Dated: New York, New York

April 1, 2010

A handwritten signature in black ink, appearing to read 'R. J. Holwell', written over a horizontal line.

Richard J. Holwell
United States District Judge